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ABSTRACT

An analysis of the Immigration Reform and Control Act of 1986 (IRCA), which requires basic English language proficiency and knowledge of United States history and civics of illegal aliens seeking permanent residency status, suggests that the Act is an example of poor language planning. The analysis has three components. First, the legalization requirements in Title II, are discussed and the education requirement is explained in the context of IRCA's legislative history. A profile of the typical undocumented resident in the United States who is affected by IRCA is then presented, and the effect of the education requirement on institutions that offer English and citizenship courses for foreign-born residents is examined. Finally, the IRCA education requirement is discussed within the context of language planning, and it is argued that while the IRCA education requirement appears to be an attempt at language acquisition planning, it is nothing but a token measure in the legalization process enacted because the cost of deporting millions of illegal aliens is prohibitive. Further, the enforcement of the requirement is interpreted as a statement of the United States mainstream society belief that English must be upheld as a symbol of a core American culture. An 18-item bibliography is included. (MSE) (Adjunct ERIC Clearinghouse on Literacy Education)

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The U.S. Immigration Reform and Control Act of 1986:
A Case Study of Ineffective Language Planning
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The Education Requirement of
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Introduction

In order to control the tremendous stream of illegal immigration into the United States across the Mexican border, the U.S. Congress passed the Immigration Reform and Control Act (IRCA) of 1986. Essentially, the first three titles of the law most visibly address this problem. Title I, Control of Illegal Immigration, specifies both employer sanctions for hiring illegal labor and an employee verification system. Title II, Legalization, mandates a two-phase legalization program for aliens who have resided in the U.S. since on or before January 1, 1982. Title III, Legal Immigration, specifies a special procedure for adjustment to permanent residency status for certain migrant farm workers, Seasonal Agricultural Workers, (SAWs).¹

Title II, Legalization, includes an education requirement which specifies that all permanent legalization applicants, excluding SAWs, must demonstrate either proficiency in basic English, and knowledge of U.S. civics and history, or that an

¹The information summarized here is taken from: U.S. Congress, House of Representatives. 1986. Immigration Reform and Control Act of 1986: Conference report. Report 99-1000. 99th Congress, 2nd Session. Washington, DC: U.S. Government Printing Office.

attempt has been made to achieve such proficiency. On the surface, the goal of the education requirement appears to promote acculturation by assisting new residents in assimilating into U.S. mainstream society. However, the requirement is actually the result of the political compromises necessary to enact a law with a troubled 15-year long legislative history.

In order to justify the granting of legal residency to long-term illegal aliens before those foreign nationals petitioning for lawful permanent residency, members of the Congress who supported legalization, as well as administrators at the Immigration and Naturalization Service, argued that those undocumented aliens who had been residing continuously in the United States for an extended period of time without committing felonies had demonstrated themselves deserving of the "extraordinary benefit" of permanent residency.² Additionally, certain members of the Congress strongly believed that the strength of the United States was due to plurality, attributable to the core American culture and its common language, English.

There are three components to the following analysis of the IRCA education requirement as an ineffective language plan. First, Title II, **Legalization** is discussed, and the education requirement is explained in the context of IRCA's legislative

² Taken from the testimony of Doris M. Meissner, Acting Commissioner, Immigration and Naturalization Service on Thursday, October 15, 1981. U.S. Congress, House of Representatives. 1982. Hearings before the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary. Serial No. 30, pt. 1, p. 129.

history. Next, a profile of the typical undocumented resident in the U.S. who is affected by IRCA is presented, and the effect of the education requirement on institutions that offer English and citizenship courses for foreign-born residents is examined. Finally, the education requirement of IRCA is discussed within a language planning context. It is argued that while the IRCA education requirement appears to be an attempt at acquisition planning (Cooper, 1987), it is not intended to be a language plan to foster language acquisition at all. Rather, IRCA uses a poorly designed language policy as a token measure in a legalization process enacted because the cost of deporting millions illegal aliens is prohibitively expensive. Its enforcement is a statement of the U.S. mainstream society's belief that English must be upheld as a symbol of a core American culture.

The legalization component of IRCA

In order to combat the growth of the U.S. 'shadow society' of undocumented aliens as well as to sanction employers who knowingly hire them, the 99th Congress passed the Immigration Reform and Control Act of 1986 (IRCA). Signed into law by President Ronald Reagan on November 6, 1986, IRCA specifies a two-phase legalization program, whereby qualified aliens who have entered the U.S. illegally before January 1, 1982 and have been living there continuously may apply for permanent residency.

During Phase 1,³ over 1.7 million undocumented aliens, of the millions estimated to live in the U.S., applied for temporary residency. Upon verification of status by the Immigration and Naturalization Service (INS)⁴ and after residing as temporary residents for 18 months, those individuals designated as eligible legalized aliens (ELAs) have one year to apply for permanent residency. This one-year period is known as Phase 2. During Phase 2, ELAs must submit proof of command of basic English literacy skills and knowledge of U.S. civics and history.⁵ The inclusion of this requirement is the result of several years of Congressional debate and administrative analysis concerning the desirability and efficacy of a Legalization component to an all-encompassing immigration law.

Enacting IRCA:

The result of fifteen years of federal analysis and Congressional debate

During the early days of the Nixon administration, the apprehension of over 161 thousand undocumented aliens over the U.S. border with Mexico and the knowledge that these individuals

³Phase 1 began on May 5, 1987 and ended on May 4, 1988. Phase 2 began on November 7, 1988 and will end in November of 1990.

⁴The Immigration and Naturalization Service (INS) is an agency of the U.S. Department of Justice, charged with "carry[ing] out a national immigration policy that will administer and enforce the immigration laws and promote and protect the public health and safety, economic welfare, national security, and humanitarian interests of this country." The United States Government Manual 1988/89. Special edition of the Federal Register. June 1, 1988 (rev.) p. 385.

⁵Federal Register. 53:43986.

entering illegally were being hired by U.S. employers, prompted the House Judiciary Committee of the 92nd Congress to begin investigative and legislative hearings on this matter on May 5, 1971. The Committee believed that the primary reason for the constant stream of undocumented aliens across the border was economical and concluded that in order to stop the economic incentive for entering the U.S. illegally, those employers knowingly hiring illegal aliens should be sanctioned.⁶ Hearings continued for eleven years, ending on March 24, 1982.

During the Carter administration, Public Law 95-412, enacted on October 5, 1978, had an impact on immigration legislation as it created the 16-member Select Commission on Immigration and Refugee Policy. The Commission was charged to report recommendations regarding the admission of immigrants and refugees to both the President and the Congress. The recommendations of the Select Commission's study were submitted on March 1, 1981 and were responsible for ongoing Congressional examination of illegal immigration in the 1980's, culminating in the enactment of IRCA in 1986. However, the report contains no recommendations that a legalization program include an education requirement like the one specified in IRCA.

⁶This and all of the following information concerning the legislative history of IRCA are taken from: U.S. Immigration Law and Policy: 1952-1986, Chapter VIII, Illegal immigration and the Immigration Reform and Control Act: 1971-1986. A report prepared for the use of the Subcommittee on Immigration and Refugee Affairs Committee on the Judiciary, United States Senate, prepared by the Congressional Research Service of the Library of Congress, December 1987.

Upon receiving the recommendations of the Select Commission in 1981, President Reagan appointed a Cabinet Level Task Force on Immigration and Refugee Policy. Attorney General William French Smith presented the administration's proposals, largely concerning the problem of illegal immigration, to a joint Congressional hearing on immigration and refugee policy on July 30, 1981. The administration's proposals included a legalization program with an education requirement. The education requirement mandated that undocumented aliens eligible for legal permanent residence through the proposed legalization program demonstrate knowledge of basic English and U.S. civics and history, and was incorporated into the subsequent immigration bills which evolved into IRCA.

Pursuant to the presentation of the Reagan administration's proposals and the recommendations of the Select Commission, the House and the Senate conducted extensive hearings on immigration. In turn, these hearings engendered identical House and Senate bills. Generally referred to as the Simpson-Mazzoli bill, this legislation was introduced as Senate bill 2222 in March of 1982. The focus of the Simpson-Mazzoli bill was to bring immigration under the control of the American people by increasing control over illegal immigration, the backlog of adjudication of asylum cases due to the arrival of foreign nationals by the boat load (notably, the Mariel Cubans and Haitians), and the number of legal immigrants arriving every year.

Most of the debate around the Simpson-Mazzoli Bill concerned the issues of employer sanctions for the hiring of illegal aliens and provisions for temporary workers--those nonimmigrants granted visas to work in the U.S. for a specified amount of time.⁷ Establishing employer sanctions was a concern because employers would be required to verify their employees' legal status by requesting certain documents upon hiring. Since in the world of illegal aliens, documentation (birth certificates and social security cards) is often falsified, those opposed to employer sanctions feared that legal residents with Spanish accents and Hispanic surnames would suffer discrimination because their legal status would be questioned by prospective employers.

The controversy related to legalization centered around the concept itself. Those opposed to legalization maintained that by offering legal resident status to undocumented aliens who had been living in the U.S. for a given length of time, the U.S. government was encouraging illegal immigration. Furthermore, undocumented aliens meeting the specifications established by the Congress and favored with legal resident status were being considered before those foreign nationals petitioning for lawful

⁷Past immigration laws have had provisions for temporary labor, meaning that nonimmigrants may be issued special visas to work for a limited time in the U.S. when the U.S. labor force is insufficient. Part of IRCA is devoted to granting amnesty and permanent residency to SAWs, usually Mexicans who have prolonged their stay in the United States after their allotted time to work has expired.

permanent residency as specified in the Immigration and Nationality Act and its amendments.⁸

Those in favor of legalization of undocumented aliens argued that the cost of deportation would be too costly. Additionally, it was felt by some that legalization combined with enforced employer sanctions would not encourage further entry of illegal aliens. Finally, it was argued that undocumented aliens who had lived in the U.S. for a long period of time had established enough equity to be given primary consideration for permanent residency. In effect, by living and working peaceably in a community, they had contributed to the well-being of that community, and were well on their way to integrating into U.S. society.

The education requirement was incorporated into IRCA at the same time that other legislation concerning the use of English was introduced and debated in the Congress. On April 27, 1981, three months before the Reagan administration proposal was submitted to the Congress by Attorney General William French Smith, Senator S.I. Hayakawa (Republican, California), proposed Senate Joint Resolution 72, to amend the Constitution by making English the official language of the United States.⁹ On April 23 and 26, 1982, one month after the Simpson-Mazzoli Bill was

⁸The U.S. maintains immigration caps based, among other factors, on a quota system. Ceiling levels are placed on the number of immigrants admitted from different regions of the world.

⁹Congressional Record. Proceedings and debates of the 97th Congress. April 27, 1981. Volume 127, part 6: 7444-7445.

introduced, Senate hearings on the Bilingual Education Amendments of 1981 were held. At that time, Senator Hayakawa offered testimony.¹⁰ On both occasions, he stated the following:

"This [American] melting pot has succeeded in creating a vibrant new culture among peoples of many different cultural backgrounds largely because of the widespread use of a common language which in this case happened to be English."¹¹

In his testimony on the Bilingual Education Amendments of 1981, Senator Hayakawa referred to the rapidly increasing Hispanic populations in the U.S., and stated that two languages, Spanish and English, existing side by side, foster separatism.¹²

Senator Hayakawa's sentiments were shared by other legislators, and are reflected in the report accompanying the Simpson-Mazzoli bill. In an introductory section entitled "The National Interest," the following is written:

"if language and cultural separatism rise above a certain level, the unity and political stability of the nation will--in time--be seriously diminished ... This unity comes from a common language and a core public culture of certain

¹⁰U.S. Senate. 1982. Bilingual Education Amendments of 1981. Hearings before the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources, United States Senate. 97th Congress, Second Session, on S. 2002. Washington, DC: U. S. Government Printing Office, p. 14.

¹¹ibid, p.15.

¹²ibid, p.16. According to the Population Reference Bureau, the Hispanic population has increased from 14.6 million in 1980 to 18.8 in 1987, an increase of approximately 30 percent. The Population Reference Bureau estimates that by 2020, the Hispanic population could number 47 million, or 15 percent of the general population.

shared values, beliefs, and customs which make us distinctly 'Americans.' ¹³

Because only 5 percent of all Hispanic immigrants from Mexico and South America naturalize as citizens, the Senate Committee on the Judiciary feared that a large Spanish speaking noncitizenry would threaten the stability of mainstream American culture. One way to curtail this threat would be to require knowledge of basic English in order for illegal aliens to be awarded permanent residency.

In the 98th Congress, the Simpson-Mazzoli bill passed in the Senate, but continued to be debated in the House. It was still felt that employer sanctions might encourage discriminatory hiring to the disadvantage of Hispanic Americans. In addition, certain Republican representatives still found the legalization component too lenient. Once the House version of the bill finally passed, financing of legalization assistance had to be recalculated in order to avoid presidential veto.

IRCA was finally signed into law during the second session of the 99th Congress. Senator Edward Kennedy (Democrat, Massachusetts) proposed that the General Accounting Office analyze the employer sanction provision of IRCA. If after three years patterns of discrimination were found, then employer sanctions would terminate. Compromises concerning the continued

¹³U.S. Senate. 1982. Immigration reform and control. Report of the Committee on the Judiciary together with additional and minority views. Report No. 97-485. 97th Congress, 2nd Session. Washington, DC: U.S. Government Printing Office. pp. 6-7.

admittance of SAWs were also made. The fifteen rocky years of controversy concerning immigration policy and reform ended with the enactment of IRCA.

Description of the IRCA education requirement

The goal of the legalization program is to enable undocumented aliens to become legal residents of the United States. IRCA requires that ELAs between the ages of 16 and 65 petitioning for an adjustment from temporary to permanent resident status either 1) demonstrate basic English literacy skills and some understanding of U.S. history and civics, or 2) offer proof that they are "satisfactorily pursuing a course of study" to achieve this knowledge.¹⁴ The INS specifies that any one of the following criteria satisfies the education requirement:¹⁵

1. The ELA may present a U.S. high school diploma.
2. The ELA may present a general equivalency diploma (GED). If the GED exam is taken in a language other than English, the applicant must also show proof that s/he has passed the English proficiency portion of the test.
3. The ELA may submit proof of one year of full-time study in a state-approved institution.

¹⁴U.S. Congress, House of Representatives. 1986. Immigration Reform and Control Act of 1986: Conference Report. Report 99-1000. 99th Congress, 2nd session. Washington, DC: U.S. Government Printing Office. p. 30.

¹⁵Information summarized here is taken from an INS outreach seminar given on October 13, 1988 at Hogar Hispano in Arlington, Virginia.

4. The ELA may pass an oral and written test (in English) on U.S. civics and history, taken at an INS office. The test consists of questions listed at the ends of chapters of the Federal Citizenship Text (1987 edition), and are chosen with respect to the applicant's command of English and degree of education.
5. The ELA may pass a 20 question multiple choice test, developed by the Educational Testing Service (ETS) and administered by the INS.
6. The ELA may submit documentation to show that s/he has satisfactorily pursued 40 hours of a 60 hour course in English, U.S. history and civics, given by a Qualified Designated Entity (an INS-acknowledged course provider) under guidelines specified by the INS.

If applicants fail the oral/written test or the ETS multiple choice test, they may request to take the test again within 6 months or may enroll in an INS approved course.

The INS encourages applicants to follow option 6; that is, to complete 40 hours of a 60-hour course in English, U.S. history and civics. The applicant need only show that an attempt has been made to learn something in these subject areas. According to an INS spokesperson, the INS does not believe that typical ELAs can achieve functional competency in basic English within the year they have to adjust their residency status. Because a major purpose of IRCA is to enable undocumented aliens to adjust their residency status, too strict an education component can be viewed as a deterrent to legalization.¹⁶

Originally, the INS decided that INS-approved citizenship courses must use the 1987 revised edition of the Federal Citizenship Text as the course text. The 1987 edition is written

¹⁶Associated Press. "Education requirement seen as snag to program for aliens." New York Times. November 7, 1988. p. A14a.

at both the 4th and 8th grade reading levels. Because these reading levels are too high for most ELAs, the INS contracted with the Center for Applied Linguistics (CAL) to rewrite the learning materials for preliteracy and elementary literacy levels. These workbooks may be used as supplements to the Federal Citizenship Texts, and the Federal Citizenship Texts must be used for curriculum development.

There is a great discrepancy between the ELA population and the group the U.S. government anticipates legalizing via IRCA. A profile of typical ELAs shows how misconceptions of the special educational and social needs of this group renders the education requirement of IRCA virtually useless in assisting ELAs in acquiring the English literacy skills necessary to assimilate into U.S. mainstream society.

An ELA profile:
The actual vs. the legislative ideal

Imagine a Central American male, 30 years old, who illegally crosses into the U.S. via the border between Texas and Mexico. There is a 60 percent chance he is Mexican, although if he goes to Washington, DC, he is most likely Salvadoran.¹⁷ If he attended elementary school at home, he probably left school somewhere between the third and the sixth grades. If he can read and write English, there is an 80 percent chance that he is

¹⁷National statistics unavailable. This description is given using figures cited for Fairfax County, Virginia, given by Elaine Bausch, Program Specialist, Adult Education and ESL, Fairfax County Schools, at Hogar Hispano, on October 13, 1988.

proficient below the eighth grade level, most likely below the fourth grade level. In the U.S. he works as an unskilled laborer, living in a 'shadow culture' where his goal is not to assimilate into the American mainstream, but to remain undetected by the INS. Within this world, his ticket to employment is most likely a falsified Social Security card. His goal is to earn a living but keep no records-- to exist day to day without establishing an identity that leaves him vulnerable to being found and deported.

This is a portrait of the average illegal immigrant to the U.S. who petitions for legal residency under IRCA. The spirit of the section of the law dealing with legalization appears to evidence the government's concern that these people assimilate into the mainstream of American culture. Of course, successfully achieving the goal of an assimilated society through legislation is questionable. Nonetheless, the INS states the following as the final rules for promulgating IRCA are written:

"The Service is genuinely concerned that temporary residents enter the mainstream of American society in a fair and equitable manner within the statutory framework provided by the Congress."¹⁸

Thus, the government states a goal of fitting the ELA into the mainstream via education. IRCA is currently the only immigration law to require proof of English literacy and knowledge of U.S. civics and history by resident aliens.

¹⁸Federal Register. 53:43988.

According to a staff member of the Subcommittee on the Judiciary of the House of Representatives (which is responsible for drafting the House version of IRCA), the legislation must require that undocumented aliens, with the exception of SAWs, show they have established sufficient equity¹⁹ to warrant consideration for residency before those legally petitioning for permanent residency.²⁰ In fact, if ELAs pass the exam offered at the INS office, they have simultaneously passed the required citizenship test should they wish to naturalize at a later date.²¹

The English requirement was seen as one way to pass IRCA through the Congress. To finance mass deportation of the population in question was too costly. To justify granting them permanent residency before those petitioning legally for permanent residency, their integration into mainstream society had to be proven. Ability to speak the English language was considered one way to prove integration into the mainstream.

By providing options for meeting the education requirement, the INS feels it is offering the ELA reasonable routes to

¹⁹The House staff member who provided this information defined equity as facts "that would convince an impartial observer that they [ELAs] could come to the head of the line" to be considered for permanent residency before other groups of immigrants. When this staff member was asked why SAWs don't have to demonstrate the English literacy skills and knowledge of U.S. civics and history that other ELAs must, he stated that this was one of the political trade-offs of getting the bill through the Congress.

²⁰Legal Permanent Residents are permanent resident aliens, who possess green cards and may work legally in the U.S.

²¹Federal Register. 53:43989.

obtaining legal resident status as easily as possible. The 40/60 hour course option is especially favored because anyone who attends the course for 40 hours meets the requirement, and also because the INS interview is shorter and no rescheduling an applicant for a make-up exam, in case s/he fails an INS exam, is necessary. It is questionable how "genuinely concerned" the INS is about the ELA successfully entering the mainstream culture fairly and equitably.

IRCA and the course provider

Church and civic groups, community colleges, adult schools and other institutions of learning have traditionally offered educational programs in English as a Second Language (ESL) as well as in basic literacy. In the case of church and civic groups, many teachers are volunteers from the community. Some of these institutions have applied for recognition by the INS as Qualified Designated Entities (QDEs), organizations authorized to teach INS-recognized citizenship courses (among other duties). With the passing of IRCA new organizations have sought to become QDEs. For both preexisting and newly recognized QDEs, IRCA has meant either revising existing courses or creating new ones, in which functional ESL lessons focus on history and civics.

How do QDEs know if their courses meet criteria established by the INS? Teachers and administrators attend information seminars where INS outreach officials disseminate the most up-to-date information on compliance with IRCA. Outreach spokespersons from the INS explain the most recent rules appearing in the

Federal Register to representatives of course providers. New course providers may instead rely on the help of established course providers in setting up classes and complying with rules.

Once a course provider creates a course, it has a thirty-day period to submit a notice of participation. Course providers are obligated to keep detailed student records, as well as records of the instructors who teach the courses. The INS is permitted to observe courses taught by course providers to ensure that agency rules are being followed. Each student is to complete course work appropriate to his/her ability level. Course providers issue a certificate of satisfactory pursuit to all students who take at least 40 hours of the 60-hour course.²²

The citizenship course requirements have been changed three times since the first working draft of the final rules was issued by the INS on January 20, 1987.²³ Initially the requirement was for a 60-hour course with 30 hours of mandatory attendance; then, a 100-hour course with 30 hours of mandatory attendance; and finally, a 60-hour course with 40 hours of mandatory attendance. Additionally, INS guidelines concerning curriculum requirements were not issued by the Department of Justice until December 16,

²²Federal Register. 53:43990.

²³Each time a proposed rule appears in the Federal Register, an agency writing a rule invites interested parties to comment on the rule. In this instance, hours of required course work has been changed based on responses received by the INS. The INS is not required to adjust the rules based on response, but considers the responses before issuing a final rule.

1988.²⁴ The fluctuations in course hours required, as well as the minimal amount of information made available by the INS have made both designing and scheduling classes difficult for course providers and teachers. In addition, the government's approval of only partial completion of required courses is frustrating to those involved in offering these classes.

Despite the 40-hour completion requirement, INS outreach personnel ask course providers to encourage ELAs to complete the course and continue going to school. Unfortunately, this plea does not take into account classroom shortages, a problem in California, the state with the largest population of ELAs. (Over 50% of the ELA population reside in California.) It is estimated that:

"school districts in California's top 100 cities with the most amnesty applicants will be incapable of providing amnesty classes to approximately 40 percent of the individuals that require these classes in the 1988-89 school year."²⁵

This estimate excludes Los Angeles.

In Los Angeles, the Evans Community Adult School has been offering classes around the clock to ease the crush of so many

²⁴The guideline issued by the U. S. Department of Justice, "Legalization: Phase two--requirements and guidelines for course of study recognized by the Attorney General," specifies all information necessary for course providers to design a curriculum to meet the requirements of the law. The final rules did not appear in the Federal Register until July 1989.

²⁵The National Association of Latino Elected and Appointed Officials. 1988. The Second Step Process: Will California school districts be able to meet the educational needs of its legalization applicants? NALEO Background Paper No. 9. Washington, DC: NALEO Education Fund. p. 1.

new students.²⁶ The one aid to course providers to ease the burden of taking on new students comes in the form of State Legalization Impact Assistance Grants (SLIAG). Course providers eligible for SLIAG can cover the costs that come with making more courses available to this immigrant population.

SLIAG funding and course providers

IRCA appropriates one billion dollars per year, from fiscal year 1988 through 1991, to reimburse those public assistance programs relying on state funding for costs incurred by meeting the demands of IRCA. Money is allotted directly to the states, based on the size of the ELA population. Because the state has control over disbursement of funds, each state also has its own system of appropriating them. Virginia's procedure is a typical example, where funds are controlled by the state's Department of Social Services. In order for a course provider to be reimbursed, it must be either part of or under contract to a school district.²⁷

For example, in Virginia, a school district is responsible for applying to the state for SLIAG funding. Applications were made available in the fall of 1988. Immediately thereafter, directors of two county adult education programs with the highest

²⁶Associated Press. op cit.

²⁷This situation is more complicated than it sounds. For example, the Episcopal Diocese in Northern Virginia wants to work out an arrangement with Northern Virginia Community College, to offer ESL course to parishioners who are ELAs. The diocese assumes it will be reimbursed through SLIAG. Is the course provider a QDE? Can a church be reimbursed for sending parishioners elsewhere for a course?

concentration of ELAs in the state requested SLIAG reimbursement. Three weeks into Phase II, the program directors had not received written approval for SLIAG reimbursement. The directors of the adult school decided to offer the citizenship courses anyway, with verbal approval from the state for SLIAG approval at a later date.

In summary, IRCA requires ELAs applying for permanent residency to demonstrate basic English literacy skills and knowledge of U.S. history and civics by taking an INS test, submitting proof of attending high school, or submitting a GED diploma. If an ELA cannot pass a test or does not have a diploma, s/he can fulfill the requirement by satisfactorily pursuing a course of study. This is done by attending at least 40 hours of a 60 hour course in English, U.S. civics and history. The course must be offered by a provider recognized by the INS, and the curriculum must be based on the 1987 Federal Citizenship text. Costs incurred by providers may possibly be reimbursed through SLIAG funding.

Phase 2 of IRCA began on November 7, 1988 and will end in November of 1990 (that is, one year after applicants who applied for temporary residency during May of 1988 have completed 18 months of temporary residency). Three weeks into Phase 2, the final rules of the law had not been published in the Federal Register, workbooks at low reading levels were not available for citizenship courses and SLIAG reimbursements for course providers were not approved.

The very course providers attempting to comply with IRCA are those that have traditionally offered adult ESL courses for years. For administrators and teachers in these institutions, IRCA means meeting the educational needs of an increased student body and designing a curriculum to match INS regulations. It is difficult to teach such a content-laden curriculum in 40 to 60 hours to limited English proficient speakers (LEPs). This issue results partially from the U.S. government's erroneous depiction of the ELA population as a group already on its way to integration into mainstream U.S. society, as well as partially from the false assumption that this group is just as able to learn U.S. civics and history in English as resident aliens petitioning to become naturalized citizens.

This should not be misinterpreted as meaning that ELAs are unwilling to learn or attend classes grudgingly. On the contrary, the education requirement of IRCA has encouraged ELAs to seek education in order to participate more fully in mainstream U.S. society. The poor administration of the law, however, sends a message of disinterest to both the education professionals who work to assist their students in meeting the requirements by designing curricula to meet INS specifications, as well as to the ELAs who wish to petition for permanent residency to live legally in the U.S.

The IRCA education requirement and language planning

It is useful to discuss the issue of the IRCA education requirement as an example of language policy--a language matter dealing with society and nation (Paulston: 1974, 1984). In discussing Jernudd's use of the terms 'language determination', 'language development' and 'language implementation', Paulston finds it helpful to examine attempts at language planning in terms of both a cultivation and policy approach in determining where input from language specialists may aid in the process. A cultivation approach is concerned with the language in terms of internal planning, such as developing the lexicon and standardizing spelling, and generally relies on the work of linguists and other language specialists. A policy approach concerns the demands and rules an entity with political authority makes concerning language use. In Figure 1, the IRCA education requirement is broken down using Paulston's criteria.

<u>Criteria</u>	<u>Cultivation Approach</u>	<u>Policy Approach</u>
Determination:		
1. Who makes the decision?	Language specialists. Language specialists not actively consulted in the design of the education requirement of IRCA.	Government officials. U.S. Congress and the INS responsible for creating IRCA and its rules.
2. Does the decision concern native or other languages?	Decision about official native language of policy makers. IRCA does not affect the use of English by policy makers, but the acquisition and learning of English by a minority group.	Decision about choice of official language or of second or foreign language of policy makers. Decision affects only subordinate classes or groups. IRCA concerns the debate to chose English as the official language of the U.S., as well as the learning of English, U.S. history and civics by ELAs as a requirement for legal permanent residency in the U.S.
3. Whom does the decision affect?	Affects language behavior of elites and policy makers. IRCA does not affect them.	Affects only subordinate classes or groups. IRCA affects 1.7 million aliens with temporary residency status desiring an adjustment in status to permanent residency.

Figure 1. IRCA education requirement as an example of a policy approach to language planning (after Paulston: 1974, 1984).

Development:

- | | | |
|---|---|---|
| 4. Factors in evaluating results-- materials and curricula. | Paedo-linguistic factors. Some evaluation of materials based on paedo-linguistic factors (e.g., CAL texts.) | Non-linguistic factors. Primarily political, materials express national policy. |
|---|---|---|

Implementation:

- | | | |
|--|---|--|
| 5. Factors in evaluating results: How is the plan received by the target population? | Passive acceptance. No. Rules challenged by interested parties. | Strong attitudes, either positive or negative. INS rules received dubiously by educators, but incorporated into curricula as best as possible to benefit students. Many ELAs who choose the 40/60 education option are happy to have the opportunity for free schooling. |
|--|---|--|

Figure 1 (cont'd). IRCA education requirement as an example of a policy approach to language planning (after Paulston: 1974, 1984).

As seen in Figure 1, the IRCA education requirement primarily represents a policy approach to solving a language problem.

By requiring the use of a course text intended for a different alien population (aliens intending to naturalize as citizens), the policy attempts to level socio-cultural differences between legal and illegal immigrants. In fact, the actual achievement of functional literacy skills and knowledge of U.S. civics and history (taught in English) is less important than the

certificate which states that the individual has attempted the goal.

In the determination to implement the education requirement of IRCA as a language plan, the Congress and the INS formalize the specification for its execution and enforcement. Course providers, administratively independent from the federal government, choose to aid the federal government in the execution of the plan by offering courses which comply with the law. Once they decide to do so, they become accountable for complying with government rules. In effect, the federal government relies upon ESL professionals to volunteer to implement the language policy.

The policy decision concerns the use of the English language by a minority group. The education requirement of IRCA directly affects the population of ELAs petitioning for permanent legal residency in the U.S., who due to their status in U.S. society, have no voice to state whether or not they wish to learn English, U.S. history and civics. Although no hard evidence is available from the ELA population, it appears that they welcome the opportunity to attend school and to learn English. However, the slow flow of often inaccurate information from the INS to course providers concerning course design has made it difficult for ESL professionals to design the curricula necessary to best educate the ELA while complying with federal regulations and rules.

The criteria discussed in terms of a cultivation approach are insignificant, with the exception of the development category. Here, linguists at CAL were asked to design workbooks written at

various literacy levels appropriate for ELAs. Evaluation of these texts can only be conducted by ESL teachers once the workbooks are in use.²⁸

Paulston notes that at some level language planning decisions must be influenced or made by language professionals. At each step of the IRCA language planning process, there is some evidence that this actually has occurred. Although it is the Congress that has specified the education requirement in the IRCA legislation, the INS has requested responses from interested groups concerning the various drafts of the final rule for promulgating the law as versions of the rule appeared in the Federal Register. Throughout this process, language professionals had the opportunity to help shape the education requirement. This was the case when the INS realized that the 1987 Federal Citizenship text was not written at the proper reading levels and contracted with CAL to provide appropriate texts. Language teaching professionals were involved in determining the number of hours for the citizenship course, as well. But in each case, it was the INS that made the final decision concerning whether or not to incorporate suggestions made by these respondents into the final rule.

Indeed, IRCA is a law that identifies the inability to be functionally literate in English as a language problem. However, the attempt made to solve the problem by the U.S. federal government is too weak to be effective. This is attributable, in

²⁸The workbooks became available in September of 1989.

part, to the fear of being labeled a racist legislative body. As Senator Alan Simpson (Republican, Wyoming) stated during the joint hearing on the Reagan administration's proposals on immigration and refugee policy:

"...[I]n the political world, consciously and often unconsciously, we vote for things that lead to bilingualism and biculturalism because we don't like to be labeled as uncaring or unloving or short in our thinking capacities...

"Yet when we do that I think we imperil ourselves, and our future in some way, and that is a statement which then can also be taken as a racist statement. So it is an interesting issue, and we will deal with that one like we deal with every single one of the ones that come before us. Tough ones; really tough ones."²⁹

The legalization program of IRCA actually has been implemented because the cost of deporting millions of illegal aliens is too expensive. The Congress made the decision to include the education requirement in order to support the legal argument that undocumented aliens affected by the legalization program have sufficient equity to support their consideration for permanent residency before all other foreign nationals lawfully requesting this privilege.

Requiring either a minimal knowledge of English, U.S. history and civics, or the attempt to achieve such knowledge, is a symbolic gesture on behalf of mainstream society. It relays the message that English, in the opinion of the Congress and of the

²⁹Taken from: Administration's proposals on immigration and refugee policy. Joint hearing before the Subcommittee on Immigration, Refugees, and International Law of the House Committee on the Judiciary and Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary held on July 30, 1981. Serial No. 21. 97th Congress, 1st session. Washington, DC: U.S. Government Printing Office. p. 64.

constituency the members represent, is the most important language of the American culture. However, in order for the law not to appear racist, the competency required of the ELA population is minimal. Basic English, although undefined in the text of the law or its rules, is considered by the INS to be the "ability to communicate in terms of basic commerce and jobs, not sophisticated writing or speaking skills."³⁰ This is unobtainable in 40 hours of study. By upholding the need for an education requirement to solve what has been identified as a language problem, the Congress is able to voice a mainstream attitude while appeasing the Hispanic minority. In turn, the INS must design a language acquisition plan to implement the education requirement.

Cooper (1987) defines acquisition planning as the process of planning for the learning of a language for use by members of a society. In acquisition planning, the internal structure of the language is not modified (as in corpus planning) and existing domains of use are not changed (as in status planning). Instead, a method of making the learning of a language accessible to a target population is the goal, such as the implementation of a national campaign to encourage Israelis to achieve fluency and literacy in Hebrew.

In Israel, special efforts are made consistently by the government to help immigrants achieve fluency and literacy in

³⁰ Ibid, p. 63. Testimony of Doris M. Meissner, Acting Commissioner, Immigration and Naturalization Service.

Hebrew. This not only includes the subsidizing of Hebrew language instruction, but also making available newspapers, novels and short stories written in simplified Hebrew. There are special radio broadcasts of the news in simplified Hebrew as well. The plan is working because Israelis and immigrants to Israel believe the plan is important for building an Israeli national identity.

It cannot be denied that the ability to speak, read and write English is a valuable skill to possess in the U.S. Could not command of the English language be promoted without reducing its value to that of a meaningless certificate in a residency application, and without the fear that minority languages threaten American culture? In a strange twist, this token education requirement reinforces the division between minority cultures and the culture of the elite by requiring people to spend a minimum of only 40 hours learning the language and culture of these elite--that is, unless teachers can encourage students to keep working on English literacy skills so they can be able to participate more easily in the mainstream society. If one of the purposes of the education requirement is that the ELAs integrate into the mainstream society, 40 hours of instruction in English, U.S. history and civics is clearly not long enough.

There are better ways to encourage the learning of English, U.S. civics and history than mandating a superficial educational curriculum at the national level. This goal would be better achieved through coordinated efforts to financially assist

educational programs offered by adult schools, church and civic groups, and community based organizations engaged in providing ESL instruction to immigrants. An effective language plan for the U.S. government to implement must include the encouragement of private sector involvement in the educational effort. One way is to offer grant money for special editions of newspapers, as well as television and radio broadcasts, in simplified English. Another way is to offer financial incentives to businesses for offering language classes at the workplace in areas with a heavy concentration of ELAs. Surely, there must be a better approach to encouraging language acquisition than what the final rules of IRCA specify, at less of a cost to the U.S. taxpayers who unknowingly finance such a poorly designed legalization program.³¹

Conclusion

The goal of IRCA is to halt illegal hiring practices and to stop illegal immigration through stricter employer sanctions and by allowing a certain groups of undocumented aliens to apply for legal residency. The conflicting political goals of the legalization program specified in IRCA have created a language planning problem from the start. Because of the politics of

³¹For additional and detailed analysis of the state of adult literacy in the U. S. and proposed coordination of federal funding sources currently available for adult education programs, including ESL, readers are referred to Forrest P. Chisman. 1989. Jump start: the federal role in adult literacy. Final report of the Project on Adult Literacy. Southport, CT: The Southport Institute for Policy Analysis.

passing a bill through the Congress, the education requirement has been made an integral part of this program. The goal of the education requirement of IRCA is not to educate 1.7 million ELAs but to legalize the residency of a rapidly growing Spanish-speaking minority. For these individuals, the ability to use basic English is equated with attempting to achieve the competency. It is more important for them to have a certificate on file with the INS than to be able to use English. The education requirement, therefore, is a token gesture made by legislators to demonstrate that the knowledge of English is a pillar of mainstream American cultural values.

Evidence from Congressional hearings on IRCA, as well as sentiments indicated in hearings on the Bilingual Education Amendments of 1981 and in the introduction of the English language amendment, indicate a great fear that U.S. culture will deteriorate if all residents are not competent users of English; however, the education requirement of IRCA seems to encourage lack of competence. SAWs, although eligible to receive English instruction under SLIAG funding, are neither required nor encouraged to attend English classes by the government. Furthermore, almost all ELAs are Hispanic and live in areas of the country where Spanish is the mother tongue of U.S. citizens. The education requirement can be interpreted as an anti-Hispanic, anti-minority symbol by these people.

It is difficult to deny that residents of the U.S. can benefit from schooling and literacy in English. Therefore, it is

disheartening that language professionals have had such little input into the language policy of the IRCA education requirement, because the implementation of the plan relies upon the professional and personal commitment of ESL teachers to the education of their students. These educators have had to revise school curricula in order to ensure that their students learn what IRCA mandates. They encourage ELAs to stay in school longer than 40 class hours so that ESL education takes on usable value. Those ELAs who realize that learning English is advantageous and are eager to legally participate in American society are happy to receive free education.

It is unfortunate that the U.S. government does not share the same commitment to the significance of an education requirement in an immigration law that educators must. In fact, the rationale for the education requirement has been described as an exercise for ELAs to "jump through some hoops" to gain permanent residency.³² By demonstrating what appears to be the equivalent knowledge of a resident alien petitioning for naturalized citizenship, ELAs jump through one such hoop.

If the goal of this requirement is to put a certificate in an application file, the plan is effective. However, if the goal is to enable aliens to integrate into mainstream U.S. culture through learning English, U.S. civics and history, then the plan is suspect. In the words of Brian Weinstein (1987:56), "Elites'

³²This remark was made by the same staff member cited in footnote 19.

motives must be examined in light of a sensitivity to the issue of interest" in proposing a language plan. If the education requirement of IRCA is implemented as a language plan to foster the mainstream ideal of a homogenous U.S. culture united by a common language, it cannot help but fail.

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